

ALABAMA AND MISSISSIPPI FIVE PER CENT. FUND AND  
SCHOOL LANDS.

[To accompany bill H. R. No. 434.]

MAY 28, 1842.

Mr. J. THOMPSON, from the Committee on the Public Lands, submitted the following

REPORT:

*The Committee on the Public Lands, who were instructed, by a resolution of this House, to inquire into the expediency of amending an act entitled "An act to carry into effect, in the States of Alabama and Mississippi, the existing compacts with those States in regard to the five per cent. fund and the school reservations," so as to give the power of selecting the school lands in the State of Mississippi to the Governor of that State, and to repeal so much of said act as requires that the selections of said school lands shall be confined to lands that shall have been offered at public sale; and to whom was also referred the memorial of the Legislature of the State of Mississippi, on the subject of the sixteenth sections in the Chickasaw cession, have had the same under consideration, and beg leave to report:*

That the most interesting feature of our land system, uniformly preserved since the organization of the first Territory in the United States, has been the reservation of one thirty-sixth part of all the public lands for the use of schools; and, upon the admission of each new State into the Confederacy, the Federal Government has entered into solemn compacts with such State, that each sixteenth section in every township should be granted to the State in which it should lie, for the purposes of education. For the most part, at the time these compacts were entered into, different tribes of Indians were in the occupancy of the soil, and the General Government recognised their claim as a possessory right merely, while the fee simple title to the lands on which they lived vested solely and exclusively in the United States. Time after time this Government has removed these Indians, and, by treaty stipulations, extinguished all title which the Indians may have claimed or possessed; but in every instance, when these lands, thus acquired, have been surveyed, the several States have respectively claimed and obtained, by virtue of the compacts previously entered into, every sixteenth section, for the use of schools. The right of the several States to this one thirty-sixth part of the lands within their territory has been considered as lying dormant till the lands within their limits have been surveyed; and as soon as the sixteenth sections have been designated

by the public surveys, this right attaches, and the title of the State becomes absolute and perfect. It is not necessary, in the present case, to determine how far the State could enforce this right, by action of ejectment, against a claimant under the United States. One thing is certain, that the Government is bound in good faith to secure to the several new States the sixteenth sections, or their equivalent in value.

In the year 1834, it seems, the United States entered into a treaty with the Chickasaw Indians, for the cession of such lands as they possessed in the States of Mississippi and Alabama. The provisions of this treaty differed from any which this Government has ever formed with any other tribe of Indians. It provided that, after certain reservations, to each Chickasaw, of a given amount of land, the residue should be sold as other public land, and that the proceeds arising from such sales, after defraying all necessary expenses, were to be faithfully kept by this Government, as a trustee, for the Chickasaw Indians; and that dividends on such sums were to be paid them at certain stated periods. No provision is made in this treaty for the 16th sections, and the State of Mississippi has been deprived, by virtue of its provisions, of her acknowledged rights. In 1836, Congress felt the injustice done the State by this treaty, and attempted a remedy in the passage of an act entitled "An act to carry into effect, in the States of Alabama and Mississippi, the existing compacts with those States in regard to the five per cent. fund and the school reservations."

In the memorial of the Legislature of the State of Mississippi, (which is appended to and made a part of this report,) they respectfully represent that, inasmuch as there are no lands within that State that have heretofore been offered for sale, and are remaining unsold, which are of equal value with the 16th sections of which they have been deprived by the provisions of the late Chickasaw treaty, they ask that an appropriation be made, either in land or money, equivalent in value to the said 16th sections.

Your committee deem this request just and equitable, and report a bill so to amend the aforesaid act as to give the selection of the 16th sections, of which the State of Mississippi has been deprived by virtue of the said Chickasaw treaty, to the Governor of that State, out of any lands remaining unsold, within the State, in the land districts contiguous to the Chickasaw cession.

---

*A memorial of the Legislature of the State of Mississippi, to the Senate and House of Representatives of the United States, on the subject of the sixteenth sections in the Chickasaw cession.*

The memorial of the Legislature of the State of Mississippi respectfully represents to your honorable bodies:

That, by the provisions of the late Chickasaw treaty, no provision was made for the reservation of the sixteenth sections for the use of schools; that the citizens residing in the said Chickasaw cession have a right to one thirty-sixth part of the land ceded to the United States by said treaty, or a fair equivalent, cannot be denied; and inasmuch as there are no lands within the State that have heretofore been offered for sale, and are remaining unsold, which are of equal value with said sixteenth sections, we, your memorialists, respectfully urge upon your honorable bodies our

just demands, and ask that an appropriation be made, either in land or money, equivalent in value to the said sixteenth sections.

The justice of our claim has been acknowledged by Congress; and we trust and believe that your honorable bodies will no longer delay what justice and liberality mutually demands. It would be unnecessary to urge upon your honorable bodies the importance of a general diffusion of knowledge. The liberality of the Federal Government, in setting apart a portion of the public domain in all the States and Territories, (with the exception above named,) is a sure guarantee that our memorial will be duly considered and our request granted.

*Resolved by the Legislature of the State of Mississippi,* That our Senators in Congress be instructed, and our Representatives requested, to urge upon Congress the justice and importance of passing a law to carry into effect the objects set forth in the foregoing memorial.

ROBERT W. ROBERTS,

*Speaker of the House of Representatives.*

J. SPEIGHT,

*President of the Senate.*

Approved February 28, 1842.

T. M. TUCKER.

I, Lewis G. Galloway, Secretary of State of the State of Mississippi, do hereby certify that the foregoing memorial of the Legislature of the State of Mississippi, to the Senate and House of Representatives of the United States, on the subject of the sixteenth sections in the Chickasaw cession, is a just and true copy of the original memorial filed in my office.

Given under my hand and seal of office, the 15th day of March, 1842.

LEWIS G. GALLOWAY,

*Secretary of State.*

